

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: NATIONAL PRESCRIPTION
OPIATE LITIGATION**

This Document Relates to:

Track One Cases

MDL 2804

Case No. 1:17-md-2804

Judge Dan Aaron Polster

**DR. JOHN N. KAPOOR'S MOTION TO QUASH SUBPOENA AND TO STAY ANY
FUTURE SUBPOENA PENDING RESOLUTION OF CRIMINAL CASE**

Dr. John N. Kapoor, pursuant to Rule 45(c)(3) of the Federal Rules of Civil Procedure and this Court's inherent authority to stay aspects of matters before it, respectfully requests that this Court quash Plaintiffs' subpoena for documents and deposition testimony, and stay discovery as to Dr. Kapoor in these consolidated actions until the conclusion of his parallel criminal prosecution, including through sentencing and the resolution of post-trial motions.

Dr. Kapoor is a former member of the Board of Directors and served, briefly, as interim CEO of Defendant Insys Therapeutics, Inc. ("Insys"). On May 2, a federal jury in the District of Massachusetts found Dr. Kapoor guilty of a single count of racketeering conspiracy related to his tenure at Insys. *See United States v. Babich et al.*, No. 1:16-cr-10343-ADB (D. Mass.) (Dkt. No. 841). Post-trial motions in that matter are due to be filed by June 6, 2019, and Dr. Kapoor's sentencing is scheduled for September 18, 2019. Plaintiffs have subpoenaed Dr. Kapoor and noticed Dr. Kapoor's deposition for the same day that post-trial motions are due: June 6, 2019.

As set out more fully in the attached memorandum of law, in order to adequately protect his Fifth Amendment rights, Dr. Kapoor's deposition and any discovery as to him should be stayed

until he has been sentenced and any post-trial motions are resolved. Such relief would neither prejudice Plaintiffs nor delay this Court's proceedings. Therefore, Dr. Kapoor respectfully requests that the subpoena be quashed and that this Court enter a stay preventing his deposition through sentencing and the resolution of post-trial motions in the parallel criminal matter.

Respectfully submitted,

By its attorneys,

NIXON PEABODY LLP

Dated: May 23, 2019

/s/ Brian T. Kelly

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CERTIFICATE OF SERVICE

I hereby certify that on May 23, 2019 I caused this Motion to be electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of filing to counsel of record for each party.

/s/ Brian T. Kelly